

REMARKS

This response is intended as a full and complete response to the final Office Action mailed April 18, 2008. In the Office Action, the Examiner notes that claims 1-10 are pending and rejected. By this response, the Applicant amends claims 1-4 and 8-9. Support for the amendments may be found in the Applicant's specification on at least page 14, line 27 – page 15, line 4.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that all of the claims are now in allowable form.

35 U.S.C. §103 Rejection of Claims 1-10

The Examiner has rejected claims 1-10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,231,494 to Wachob (Wachob '494) in view of U.S. Patent 5,155,591 to Wachob (Wachob '591). Applicant respectfully traverses the rejection.

The Applicant respectfully submits that Wachob '494 and Wachob '591, alone or in combination, fail to teach or suggest Applicant's claim 1, as a whole. Specifically, the Applicant's independent claim 1 (and similarly in claims 2, 4 and 8) positively recites:

1. A method of delivering television programming to a plurality of subscribers using tiered video, the method comprising:
 - associating a first video program with a first channel;
 - associating a second video program with a second channel;
 - receiving from a respective subscriber input device a channel selection chosen by each one of the plurality of subscribers;
 - switching to a different channel carrying a different video program not selected by the plurality of subscribers to be displayed at each television associated with the plurality of subscribers, wherein the different video program for each one of the plurality of subscribers are not the same, wherein said switching is controlled by a network controller at a head end.

The Applicant notes the Examiner's response to previous arguments. In light of the Examiner's response, the Applicant amends claims 1, 2, 4 and 8 to clarify that the network controller at the head end controls the actual switching of channels carrying a

different video program. Thus, the Applicant believes that in view of the above amendments that the combination of Wachob '494 and Wachob '591 do not render the Applicant's claims obvious.

Specifically, Wachob '494 and Wachob '591, either alone or in any permissible combination, fail to teach or suggest at least switching to a different channel carrying a different video program not selected by the plurality of subscribers to be displayed at each television associated with the plurality of subscribers, wherein the different video program for each one of the plurality of subscribers are not the same, wherein said switching is controlled by a network controller at a head end, as recited in claim 1. Wachob '494 specifically teaches that a microcontroller at the subscriber receiver selects a commercial. (See Wachob '494, col. 5, l. 56 – col. 6, l. 6). Therefore, Wachob '494 appears to teach away from the Applicant's invention or at a minimum fails to teach or suggest that the switching is controlled by a network controller at a head end.

Moreover, Wachob '591 fails to bridge the substantial gap left by Wachob '494 and also appears to teach away from Applicant's invention because Wachob '591 also fails to teach or suggest switching to a different channel carrying a different video program not selected by the plurality of subscribers to be displayed at each television associated with the plurality of subscribers, wherein the different video program for each one of the plurality of subscribers are not the same, wherein said switching is controlled by a network controller at a head end. Wachob '591 teaches that the converter contains data indicative of a viewer's demographic characteristics. (See Wachob '591, col. 7, ll. 29-30). Then the converter determines which channel to tune to in order to receive the targeted commercials. (See *Id.* at ll. 37-39, emphasis added). The head end taught by Wachob '591 merely provides all the possible commercials to each converter. (See Wachob '591, col. 6, ll. 27-36). The head end taught by Wachob '591 does not control the tuning to a different channel in order to receive the targeted commercials.

In stark contrast, Applicant's invention teaches that the network controller at a head end controls switching to a different channel carrying a different video program. (See e.g., Applicant's specification, p. 14, l. 27 – p. 15, l. 2.) Consequently, the set top

terminals in Applicant's invention do not require as much processing power and may be manufactured at lower costs.

As such, Applicant submits that Wachob '494 and Wachob '591 alone or in combination fail to teach or suggest Applicant's invention as recited independent claim 1 as a whole and, therefore, Applicant's claim 1 is patentable under 35 U.S.C. §103. Independent claims 2, 4 and 8 recite relevant limitations similar to those recited in independent claim 1. Accordingly, for at least the same reasons discussed above, independent claims 2, 4 and 8 also are patentable under 35 U.S.C. §103. Furthermore, claims 3, 5-7 and 9-10 depend directly from independent claims 2, 4 and 8, while adding additional elements. Therefore, these dependent claims also are not are patentable under 35 U.S.C. §103 for at least the same reasons discussed above in regards to independent claims 1, 2, 4 and 8. Accordingly, Applicant respectfully requests that the Examiner's rejection be withdrawn.

CONCLUSION

Thus, Applicant submits that none of the claims, presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: _____

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